

103D CONGRESS
1ST SESSION

S. 1776

To amend the Revised Statutes to restore standards for proving intentional discrimination.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 22, 1993

Mr. METZENBAUM (for himself, Mr. FEINGOLD, Mr. WOFFORD, Mrs. MURRAY, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Revised Statutes to restore standards for proving intentional discrimination.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Rights Standards
5 Restoration Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Supreme Court enunciated a method of
9 proving intentional discrimination under Federal law
10 in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792

(1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981);

(2) such method has been applied to establish intentional discrimination in cases and proceedings under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and other Federal laws; and

(3) the standards established in St. Mary's Honor Center v. Hicks, No. 92-602 (1993), regarding the effect of a finding of pretext on proof of unlawful intentional discrimination, are contrary to—

(A) such method established by the Supreme Court in McDonnell Douglas Corp. v. Green and Texas Department of Community Affairs v. Burdine; and

(B) congressional intent regarding such Federal laws.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to restore the standards (regarding the effect of a finding of pretext on proof of unlawful intentional discrimination) enunciated by the Supreme Court in McDonnell Douglas Corp. v. Green and

1 Texas Department of Community Affairs v. Burdine
2 as part of a method of proving intentional discrimi-
3 nation; and

4 (2) to ensure the application of such restored
5 standards in all cases and proceedings under Fed-
6 eral law (including title VII of the Civil Rights Act
7 of 1964, title VIII of the Civil Rights Act of 1968,
8 the Age Discrimination in Employment Act of 1967,
9 and other Federal laws) to which such method
10 applies.

11 **SEC. 4. STANDARDS FOR PROVING INTENTIONAL DISCRIMI-**
12 **NATION IN CERTAIN CIRCUMSTANCES.**

13 The Revised Statutes are amended by inserting after
14 section 1979 (42 U.S.C. 1983) the following new section:

15 **“SEC. 1979A. STANDARDS FOR PROVING INTENTIONAL DIS-**
16 **CRIMINATION IN CERTAIN CIRCUMSTANCES.**

17 “(a) STANDARDS.—In a case or proceeding brought
18 under Federal law in which a complaining party meets its
19 burden of proving a prima facie case of unlawful inten-
20 tional discrimination and the respondent meets its burden
21 of clearly and specifically articulating a legitimate, non-
22 discriminatory explanation for the conduct at issue
23 through the introduction of admissible evidence, unlawful
24 intentional discrimination shall be established where the

1 complaining party persuades a trier of fact, by a prepon-
2 derance of the evidence, that—

3 “(1) a discriminatory reason more likely moti-
4 vated the respondent; or

5 “(2) the respondent’s proffered explanation is
6 unworthy of credence.

7 “(b) RULE OF CONSTRUCTION.—This section shall
8 apply only to those cases and proceedings in which the
9 method of proof articulated in McDonnell Douglas Corp.
10 v. Green, 411 U.S. 792 (1973), and Texas Department
11 of Community Affairs v. Burdine, 450 U.S. 248 (1981),
12 applies and shall not be construed to specify the exclusive
13 means by which the complaining party may establish un-
14 lawful intentional discrimination under Federal law.”.

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